

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROLAND C. SPERBERG, Confined
at F.C.I. Terre Haute Indiana,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

08-cv-610-bbc

Petitioner Roland Sperberg, a prisoner at the Federal Correctional Institution in Terre Haute, Indiana, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Because petitioner has not paid the \$5 fee for filing his § 2241 petition, I construe the petition to include a request for leave to proceed in forma pauperis. A decision on the request will be delayed because I cannot determine whether petitioner is indigent until he submits a trust fund account statement for the six-month period immediately preceding the filing of his habeas corpus petition. *Longbehn v. United States*, 169 F.3d 1082 (7th Cir. 1999).

Once petitioner submits his trust fund account statement, this court will calculate

petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, he will not be eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Now that petitioner is aware of the formula this court uses in determining whether a prisoner is indigent for the purpose of paying a \$5 filing fee, he may be able to figure easily whether he qualifies. If he knows that he will not qualify for indigent status, he may elect to submit a check or money order made payable to the clerk of court in the amount of \$5 in lieu of the six-month statement requested above. In any event, petitioner should act quickly. If, by November 7, 2008, petitioner does not submit either the \$5 payment or a trust fund account statement for the last six months, his request for leave to proceed in forma pauperis will be denied and this action will be closed.

ORDER

IT IS ORDERED that petitioner may have until November 7, 2008, in which to submit a trust fund account statement for the period beginning approximately April 7, 2008 and ending approximately October 6, 2008. Alternatively, petitioner may have until November 7, 2008, in which to pay the \$5 fee for filing his petition. If, by November 7, 2008, petitioner does not pay the filing fee or submit the required trust fund account

statement, the clerk of court is directed to close this case for petitioner's failure to prosecute.

Entered this 21st day of October, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge